

CONTRACT #4
RFS # 339.12-005
FA # 06-16428-05

**Mental Health & Developmental
Disabilities, Western Mental
Health Institute**

VENDOR:
**Guardian Healthcare Providers,
Inc.**



STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
WESTERN MENTAL HEALTH INSTITUTE
11100 OLD HIGHWAY 64 WEST
BOLIVAR, TN 38008
(731)-228-2000

ROGER PURSLEY
CHIEF EXECUTIVE OFFICER

RONALD BRUCE
ADMINISTRATOR

March 4, 2009

To: Fiscal Review Committee
Allotment Code: 339.12
Vendor: Guardian HealthCare Providers, Inc.
Contract Number: FA0616428

- A.) Detailed breakdown of the actual expenditures anticipated in each year of the contract, including specific line items, the source of funds (federal, state, or other--if other, please specify source), and the disposition of any excess funds.

Only 1 fiscal year left – FY 2010
About 9 registered nurses
All State Funds
Estimate of 17,675 Total hours
Estimate of \$875,000 Total Dollars

- B.) Detailed breakdown in dollars of any savings that the department anticipates will result from this contract, including but not limited to, reduction in positions, reduced equipment costs, travel, or any other item related to the contract.

Western Mental Health Institute is a 187 bed state operated psychiatric inpatient hospital in Bolivar, Tennessee. It is a division of the Tennessee Department of Mental Health and Developmental Disabilities.

Western Mental Health Institute (WMHI) respectfully requests approval for continuation of the Guardian Healthcare Contract Amendment 06 for fiscal year 2010. This is a safety net contract (option) for WMHI to insure that we maintain the required staffing ratio of licensed nurses per patient population as defined by CMS (Medicare) and The Joint Commission for continued hospital accreditation. This is a specific contract for nurses only, with one specific (1) vendor as the result of a bidding process through a previous (RFP) Request For Proposal.

Note: WMHI does not currently have any other contract or resource option to insure staffing compliance for nurses at this time.

WMHI requires twenty-four (24) hours per day, seven (7) days per week of coverage with Registered Nurses for the care and treatment of psychiatric patients admitted to the state facility. The Nurse Executive of WMHI determines the need for utilizing contract Registered Nurses based on a on-going review of the daily patient census demands and the availability of existing WMHI staff to maintain compliance with CMS (Medicare) and Joint Commission requirements.

This is NOT a new request for additional money, but only a request for continuing the existing contract through fiscal year 2010. This contract requires an annual review because the contract process at the time the RFP was awarded required that the contracts be renewed on a year to year basis, in order to determine the continued need for services up to a maximum of five (5) years. This contract continues to meet the safety net need requirement to insure staffing capability and mandatory regulatory compliance according to healthcare regulations.

The core problem is the national nursing shortage and the rural location of Western Mental Health Institute. Despite aggressive advertising and recruitment the chart below notes the large number of vacant state positions.

Average Number of RN vacancies by class by month:

	RN2	RN3	RN4	RN5
Jul-08	17	7	0	1
Aug-08	16	7	0	1
Sep-08	12	7	0	1
Oct-08	9	7	0	0
Nov-08	9	7	0	0
Dec-08	9	7	0	0
Jan-09	8	7	0	0
Feb-09	8	7	0	0

- C.) Detailed analysis in dollars of the cost of obtaining this service through the proposed contract as compared to other options.

The core problem is the national nursing shortage and the rural location of Western Mental Health Institute. Despite aggressive advertising and recruitment the chart in B above notes the large number of vacant state positions.

The contract with Guardian Healthcare was the result of bidding thru the Request for Proposal. The details are listed below.

- RFP Release Date:*
April 15, 2005
- Number of Notifications of RFP posting mailed and date mailed:*
33 notifications, Mailed April 15, 2005
- Names of Firms and location that submitted proposals:*
Community Ties of America – Brentwood, Tennessee
Guardian Healthcare Providers – Brentwood, Tennessee
Holistic Nursing Care – Bolivar, Tennessee
MPS Group – Jacksonville, Florida
Nursefinders – Dallas, Texas
Paragon Staffing – Memphis, Tennessee
Supplemental Healthcare – Buffalo, New York

If you have questions about this request or need further information please contact me at 731-228-2015.

Sincerely,

Roger P. Pursley,
Chief Executive Officer

RPP/ccm



STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
WESTERN MENTAL HEALTH INSTITUTE
11100 OLD HIGHWAY 64 WEST
BOLIVAR, TN 38008
(731)-228-2000

ROGER PURSLEY
CHIEF EXECUTIVE OFFICER

RONALD
BRUCE

ADMINISTRATOR

February 24, 2009

RECEIVED

FEB 24 2009

FISCAL REVIEW

To: Fiscal Review Committee
Allotment Code: 339.12
Vendor: Guardian HealthCare Providers, Inc.
Contract Number: FA0616428

Western Mental Health Institute is a 187 bed state operated psychiatric inpatient hospital in Bolivar, Tennessee. It is a division of the Tennessee Department of Mental Health and Developmental Disabilities.

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This is NOT a new request for additional money, but only a request for continuing the existing contract through fiscal year 2010. This contract requires an annual review because the contract process at the time the RFP was awarded required that the contracts be renewed on a year to year basis, in order to determine the continued need for services up to a maximum of five (5) years. This contract continues to meet the safety net need requirement to insure staffing capability and mandatory regulatory compliance according to healthcare regulations.

If you have questions about this request or need further information please contact me, Roger Pursley, at 731-228-2015.

Sincerely yours,

Roger P. Pursley,
Chief Executive Officer

RPP/ccm

TELEPHONE: EXTERNAL (731) 228-2016, INTERNAL EXT. 3016, FAX (731) 658-2783

NON-COMPETITIVE AMENDMENT REQUEST:

RECEIVED

APPROVED

FEB 20 2009

FISCAL REVIEW

Commissioner of Finance & Administration

1) RFS #	33912-00506	
2) Procuring Agency :	Department of Mental Health and Developmental Disabilities, Western Mental Health Institute	
EXISTING CONTRACT INFORMATION		
3) Service Caption :	Nursing Services	
4) Contractor :	Guardian Healthcare Providers, Inc.	
5) Contract #	FA-06-16428-05	
6) Contract Start Date :	07/01/2005	
7) CURRENT Contract End Date : (if ALL options to extend the contract are exercised)	06/30/2010	
8) CURRENT Maximum Cost : (if ALL options to extend the contract are exercised)	\$4,679,681.00	
PROPOSED AMENDMENT INFORMATION		
9) Amendment #	06	
10) Amendment Effective Date : (attached explanation required if < 60 days after F&A receipt)	07/01/2009	
11) PROPOSED Contract End Date : (if ALL options to extend the contract are exercised)	06/30/10	
12) PROPOSED Maximum Cost : (if ALL options to extend the contract are exercised)	\$ 5,649,741.00	
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
This amendment will extend the term of the contract through June 30, 2010 and add \$970,060. The base contract was issued in April of 2005 as the result of a request for proposals (RFP 339.12.005), with the option to extend the term for up to five years. This is the last year of the contract. This amendment does not change the qualifications of the personnel, background check, or duties performed.		
15) Explanation of Need for the Proposed Amendment :		
To provide an adequate number of Licensed Registered Nurses to meet staffing standards.		
16) Name & Address of Contractor's Current Principal Owner(s) : (not required for a TN state education institution)		
Rena McGreggor, Chief Operating Officer, The Guardian Group, Inc., 105 West Park Drive, Suite 100, Brentwood, TN, 37027		
17) Office for Information Resources Endorsement : (required for information technology service; n/a to THDA)		
Documentation is ... <input checked="" type="checkbox"/> Not Applicable to this Request <input type="checkbox"/> Attached to this Request		
18) eHealth Initiative Endorsement : (required for health-related professional, pharmaceutical, laboratory, or imaging service)		

Documentation is ... ☐ Not Applicable to this Request ☒ Attached to this Request

19) Department of Human Resources Endorsement : (required for state employees training service)

Documentation is ... ☒ Not Applicable to this Request ☐ Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

The Request for Proposals (RFP) process was utilized, resulting in the contract being awarded to Guardian Healthcare Providers.

21) Justification for the Proposed Non-Competitive Amendment :

To utilize the term extension clause and extend the term of the current contract through June, 2010 and add additional dollars.

AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)


SIGNATURE & DATE

2/18/09

NON-COMPETITIVE AMENDMENT REQUEST: **REVISED 3 16 09**

APPROVED

Commissioner of Finance & Administration

1) RFS #	339.12-005-06
2) Procuring Agency :	Department of Mental Health and Developmental Disabilities, Western Mental Health Institute
EXISTING CONTRACT INFORMATION	
3) Service Caption :	Nursing Services
4) Contractor :	Guardian Healthcare Providers, Inc.
5) Contract #	FA-06-16428-05
6) Contract Start Date :	07/01/2005
7) CURRENT Contract End Date : (if ALL options to extend the contract are exercised)	06/30/2010
8) CURRENT Maximum Cost : (if ALL options to extend the contract are exercised)	\$4,679,681.00
PROPOSED AMENDMENT INFORMATION	
9) Amendment #	06
10) Amendment Effective Date : (attached explanation required if < 60 days after F&A receipt)	07/01/2009
11) PROPOSED Contract End Date : (if ALL options to extend the contract are exercised)	06/30/10
12) PROPOSED Maximum Cost : (if ALL options to extend the contract are exercised)	\$ 5,649,741.00
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service
14) Description of the Proposed Amendment Effects & Any Additional Service :	
<p>Western Mental Health Institute is a 187 bed state operated psychiatric inpatient hospital in Bolivar, Tennessee. It is a division of the Tennessee Department of Mental Health and Developmental Disabilities.</p> <p>Western Mental Health Institute (WMHI) respectfully requests approval for continuation of the Guardian Healthcare Contract Amendment 06 for fiscal year 2010. This is a safety net contract (option) for WMHI to insure that we maintain the required staffing ratio of licensed nurses per patient population as defined by CMS (Medicare) and The Joint Commission for continued hospital accreditation. This is a specific contract for nurses only, with one specific (1) vendor as the result of a bidding process through a previous (RFP) Request For Proposal.</p>	

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This Contract was a result of RFP# 339.12-005 that was released on April 15, 2005. The RFP process resulted in the current contract with Guardian Healthcare Providers. This amendment does not change the qualifications of the personnel, background check, or duties performed. The only effect is to utilize the option to extend the contract through Fiscal Year 2010 and add additional dollars in the amount of \$970,060.

15) Explanation of Need for the Proposed Amendment :

To provide adequate number of Licensed Registered Nurses to meet staffing standards.

16) Name & Address of Contractor's Current Principal Owner(s) : (not required for a TN state education institution)

Renae McGregor, Chief Operating Officer, The Guardian Group, Inc., 105 West Park Drive, Suite 100, Brentwood, TN, 37027

17) Office for Information Resources Endorsement : (required for information technology service; n/a to THDA)

Documentation is ... ☒ Not Applicable to this Request ☐ Attached to this Request

18) eHealth Initiative Endorsement : (required for health-related professional, pharmaceutical, laboratory, or imaging service)

Documentation is ... ☒ Not Applicable to this Request ☒ Attached to this Request

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AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)


SIGNATURE & DATE

3/16/09



TRANSMITTAL

Request for Procurement Document Endorsement

TO : Melissa E. Hargiss,
Assistant Director of the eHealth Initiative

FAX # 532-2849

13th Floor Tennessee Tower
312 Eight Avenue North
Nashville, TN 37243
(615) 532-1553

FROM : Linda Parker, Program Support

FAX # 615-253-3920

DATE : February 11, 2009

RFS # 33912-00510

RE : Nursing Services

The attached service procurement document involves the state of Tennessee buying medical/mental health-related professional, pharmaceutical, laboratory, or imaging type services. Accordingly, it requires the review and support of the eHealth Initiative staff. The purpose of this communication is to request said review and support.

Please sign below to document the review and support of the subject procurement document by the eHealth Initiative, and return this communication at your earliest convenience.

If there are any questions or concerns about this matter, contact Linda Parker at 615-532-6741. Thank you for your help.

Attachment(s)

(Note to Requesting Party: Attachment(s) must include the entire proposed RFP, non-competitive contract request, competitive negotiation request, alternative procurement process request, contract, or amendment)

eHealth Initiative Endorsement :

2-18-09

Assistant Director of the eHealth Initiative

Date

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Roger Pursley, Chief Executive Officer	*Contact Phone:	731-228-2015
*Contract Number:	FA0616428 00	*RFS Number:	339.12-005
*Original Contract Begin Date:	07/01/05	*Current End Date:	06/30/2010
Current Request Amendment Number: (if applicable)	06		
Proposed Amendment Effective Date: (if applicable)	07/01/02009		
*Department Submitting:	Mental Health & Developmental Disabilities		
*Division:	Western Mental Health Institute		
*Date Submitted:	02-11-09		
*Submitted Within Sixty (60) days:	Yes		
If not, explain:	N/A		
*Contract Vendor Name:	Guardian Healthcare Providers, Inc.		
*Current Maximum Liability:	\$4,679,681.00		
*Current Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)			
FY:06	FY:07	FY:08	FY:09
\$1,794,000	\$935,512	\$973,388	\$976,781
FY:10			
\$970,060			
FY:			
\$			
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report)			
FY:06	FY:07	FY:08	FY:09
\$0.00	\$217,946.89	\$721,073.88	\$463,066.13
FY:10			
\$N/A			
FY:			
\$			
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		Surplus contract funds were not used or spent.	
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A	
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A	
*Contract Funding Source/Amount:	State:	100%	Federal:

Supplemental Documentation Required for
Fiscal Review Committee

Interdepartmental:		Other:	
If "other" please define:			
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
7/01/06		Revising shift maximums, contract term, maximum liability	
7/01/07		Revising to add the ability to hire EB3 nurses from Guardian.	
07/01/07		Revising contract term and maximum liability	
7/01/08		Revising shift maximums, contract term, maximum liability	
12/01/08		Permission to pay EB3 nurses overtime	
Method of Original Award: <i>(if applicable)</i>		RFP# 339.12-005	

FFY	ALLOT	COST	OBJR	AGC/BATCH	Date	Type	#	Seq	TCD	INVOICE	#	REFDOC	REFSUF	CURDOC	VENDOR	WNDO	VSU/EXP	MONTH	YEAR	SEQ	CKEY	
07	33912	54100	084	441	33912	070709	D	204	00001	103	01056821-IN	FA0616428	02	0822	GUARDIAN HEAL	V621494290	00	\$10,912.50	06	07	A	11
07	33912	54100	084	441	33912	070703	D	199	00004	103	0105796-IN	FA0616428	02	0807	GUARDIAN HEAL	V621494290	00	\$10,961.00	06	07	A	11
07	33912	54100	084	441	33912	070627	D	195	00001	103	0105765-IN	FA0616428	02	0782	GUARDIAN HEAL	V621494290	00	\$10,670.00	06	07	A	11
07	33912	54100	084	441	33912	070621	D	192	00006	103	0105740-IN	FA0616428	02	0774	GUARDIAN HEAL	V621494290	00	\$9,530.38	06	07	A	11
07	33912	54100	084	441	33912	070621	D	192	00006	103	0105720-IN	FA0616428	02	0774	GUARDIAN HEAL	V621494290	00	\$11,518.76	06	07	A	11
07	33912	54100	084	441	33912	070606	D	184	00002	103	0105693-IN	FA0616428	02	0748	GUARDIAN HEAL	V621494290	00	\$10,864.00	06	07	A	11
07	33912	54100	084	441	33912	070604	D	180	00006	103	0105671-IN	FA0616428	02	0727	GUARDIAN HEAL	V621494290	00	\$10,912.50	06	07	A	11
07	33912	54100	084	441	33912	070523	D	177	00011	103	0105631-IN	FA0616428	00	0712	GUARDIAN HEAL	V621494290	00	\$10,912.50	05	07	A	11
07	33912	54100	084	441	33912	070523	D	174	00010	103	0105607-IN	FA0616428	00	0712	GUARDIAN HEAL	V621494290	00	\$10,912.50	05	07	A	11
07	33912	54100	084	441	33912	070515	D	164	00001	103	0105569-IN	FA0616428	00	0690	GUARDIAN HEAL	V621494290	00	\$10,912.50	05	07	A	11
07	33912	54100	084	441	33912	070503	D	164	00001	103	0105568-IN	FA0616428	00	0626	GUARDIAN HEAL	V621494290	00	\$10,912.50	05	07	A	11
07	33912	54100	084	441	33912	070427	D	163	00001	103	0105541-IN	FA0616428	00	0623	GUARDIAN HEAL	V621494290	00	\$7,226.50	04	07	A	11
07	33912	54100	084	441	33912	070420	D	159	00001	103	0105516-IN	FA0616428	00	0611	GUARDIAN HEAL	V621494290	00	\$7,275.00	04	07	A	11
07	33912	54100	084	441	33912	070410	D	151	00002	103	0105493-IN	FA0616428	00	0575	GUARDIAN HEAL	V621494290	00	\$7,275.00	04	07	A	11
07	33912	54100	084	441	33912	070403	D	149	00001	103	0105437-IN	FA0616428	00	0567	GUARDIAN HEAL	V621494290	00	\$7,275.00	04	07	A	11
07	33912	54100	084	441	33912	070322	D	139	00001	103	0105382-IN	FA0616428	00	0526	GUARDIAN HEAL	V621494290	00	\$7,275.00	03	07	A	11
07	33912	54100	084	441	33912	070308	D	133	00002	103	0105361-IN	FA0616428	00	0500	GUARDIAN HEAL	V621494290	00	\$7,275.00	03	07	A	11
07	33912	54100	084	441	33912	070308	D	133	00002	103	0105286-IN	FA0616428	00	0456	GUARDIAN HEAL	V621494290	00	\$7,275.00	03	07	A	11
07	33912	54100	084	441	33912	070220	D	121	00002	103	0105250-IN	FA0616428	00	0430	GUARDIAN HEAL	V621494290	00	\$2,910.00	02	07	A	11
07	33912	54100	084	441	33912	070220	D	121	00001	103	0105215-IN	FA0616428	00	0406	GUARDIAN HEAL	V621494290	00	\$5,820.00	02	07	A	11
07	33912	54100	084	441	33912	070207	D	114	00001	103	0105141-IN	FA0616428	00	0406	GUARDIAN HEAL	V621494290	00	\$7,275.00	02	07	A	11
07	33912	54100	084	441	33912	070130	D	106	00003	103	0105116-IN	FA0616428	00	0406	GUARDIAN HEAL	V621494290	00	\$5,456.25	01	07	A	11
07	33912	54100	084	441	33912	070130	D	106	00002	103	0105116-IN	FA0616428	00	0406	GUARDIAN HEAL	V621494290	00	\$217,946.89	01	07	A	11

FFY	ALLOT	COST	OBURS	AGCODE	BATCH	Date	Type	Seq#	TCD	INVOICE #	REFDOC	REVSUF	CURDOC	VENDOR	VANDNO	VSUFIX	EXP	MONTH	YEAR	SEQ	KEY	COMMENTS	
08	33912	54100	084	441	33912	080709	D	270	00001	103	0107181	IN	FA0816428	03	0837	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	05	08	A	11	
08	33912	54100	084	441	33912	080701	D	265	00001	103	0107137	IN	FA0816428	03	0822	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080701	D	264	00001	103	0107117	IN	FA0816428	03	0821	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080618	D	256	00001	103	0107097	IN	FA0816428	03	0797	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080609	D	250	00001	103	0107059	IN	FA0816428	03	0772	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080602	D	246	00001	103	0107048	IN	FA0816428	03	0757	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080530	D	239	00001	103	0107022	IN	FA0816428	03	0742	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080523	D	237	00001	103	0106994	IN	FA0816428	03	0735	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080514	D	222	00001	103	0106962	IN	FA0816428	03	0718	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	06	08	A	11	
08	33912	54100	084	441	33912	080501	D	216	00001	103	0106934	IN	FA0816428	00	0664	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	05	08	A	11	
08	33912	54100	084	441	33912	080429	D	215	00001	103	0106913	IN	FA0816428	00	0657	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	05	08	A	11	
08	33912	54100	084	441	33912	080416	D	210	00001	103	0106884	IN	FA0816428	00	0637	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	04	08	A	11	
08	33912	54100	084	441	33912	080408	D	205	00001	103	0106855	IN	FA0816428	00	0626	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	04	08	A	11	
08	33912	54100	084	441	33912	080403	D	200	00001	103	0106826	IN	FA0816428	00	0607	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	04	08	A	11	
08	33912	54100	084	441	33912	080326	D	194	00001	103	0106789	IN	FA0816428	00	0586	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	04	08	A	11	
08	33912	54100	084	441	33912	080319	D	190	00001	103	0106752	IN	FA0816428	00	0573	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	04	08	A	11	
08	33912	54100	084	441	33912	080313	D	188	00001	103	0106727	IN	FA0816428	00	0565	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	04	08	A	11	
08	33912	54100	084	441	33912	080306	D	181	00001	103	0106727	IN	FA0816428	00	0543	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	03	08	A	11	
08	33912	54100	084	441	33912	080225	D	172	00001	103	0106693	IN	FA0816428	00	0512	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	02	08	A	11	
08	33912	54100	084	441	33912	080221	D	169	00001	103	0106666	IN	FA0816428	00	0506	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	02	08	A	11	
08	33912	54100	084	441	33912	080214	D	164	00001	103	0106645	IN	FA0816428	00	0494	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	02	08	A	11	
08	33912	54100	084	441	33912	080211	D	161	00001	103	0106625	IN	FA0816428	00	0487	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	02	08	A	11	
08	33912	54100	084	441	33912	080124	D	148	00001	103	0106525	IN	FA0816428	00	0450	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	01	08	A	11	
08	33912	54100	084	441	33912	080118	D	146	00001	103	0106476	IN	FA0816428	00	0444	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	01	08	A	11	
08	33912	54100	084	441	33912	080111	D	138	00001	103	0106453	IN	FA0816428	00	0428	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	01	08	A	11	
08	33912	54100	084	441	33912	080102	D	127	00001	103	0106433	IN	FA0816428	00	0401	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	01	08	A	11	
08	33912	54100	084	441	33912	071226	D	126	00001	103	0106410	IN	FA0816428	00	0397	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	12	07	A	11	
08	33912	54100	084	441	33912	071220	D	123	00001	103	0106397	IN	FA0816428	00	0392	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	12	07	A	11	
08	33912	54100	084	441	33912	071211	D	114	00001	103	0106380	IN	FA0816428	00	0365	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	12	07	A	11	
08	33912	54100	084	441	33912	071205	D	107	00001	103	0106359	IN	FA0816428	00	0340	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	12	07	A	11	
08	33912	54100	084	441	33912	071127	D	101	00001	103	0106312	IN	FA0816428	00	0325	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	11	07	A	11	
08	33912	54100	084	441	33912	071127	D	100	00001	103	0106271	IN	FA0816428	00	0324	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	11	07	A	11	
08	33912	54100	084	441	33912	071113	D	090	00001	103	0106261	IN	FA0816428	00	0287	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	11	07	A	11	
08	33912	54100	084	441	33912	071105	D	084	00001	103	0106241	IN	FA0816428	00	0286	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	11	07	A	11	
08	33912	54100	084	441	33912	071102	D	082	00001	103	0106235	IN	FA0816428	00	0267	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	11	07	A	11	
08	33912	54100	084	441	33912	071024	D	075	00001	103	0106183	IN	FA0816428	00	0240	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	10	07	A	11	
08	33912	54100	084	441	33912	071024	D	074	00001	103	0106175	IN	FA0816428	00	0239	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	10	07	A	11	
08	33912	54100	084	441	33912	071009	D	067	00001	103	0106134	IN	FA0816428	00	0218	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	10	07	A	11	
08	33912	54100	084	441	33912	071009	D	066	00001	103	0106125	IN	FA0816428	00	0217	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	10	07	A	11	
08	33912	54100	084	441	33912	070928	D	057	00001	103	0106081	IN	FA0816428	00	0188	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	09	07	A	11	
08	33912	54100	084	441	33912	070917	D	047	00001	103	0106072	IN	FA0816428	00	0166	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	09	07	A	11	
08	33912	54100	084	441	33912	070912	D	043	00001	103	0106047	IN	FA0816428	00	0123	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	09	07	A	11	
08	33912	54100	084	441	33912	070904	D	034	00001	103	0106044	IN	FA0816428	00	0118	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	09	07	A	11	
08	33912	54100	084	441	33912	070930	D	032	00001	103	0106064	IN	FA0816428	00	0123	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	09	07	A	11	
08	33912	54100	084	441	33912	070827	D	029	00001	103	0106061	IN	FA0816428	00	0118	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	09	07	A	11	
08	33912	54100	084	441	33912	070816	D	022	00001	103	0106049	IN	FA0816428	00	0105	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	08	07	A	11	
08	33912	54100	084	441	33912	070807	D	012	00003	103	0106076	IN	FA0816428	00	0051	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	08	07	A	11	
08	33912	54100	084	441	33912	070807	D	012	00003	103	0106062	IN	FA0816428	00	0051	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	08	07	A	11	
08	33912	54100	084	441	33912	070727	D	008	00004	103	0106063	IN	FA0816428	00	0027	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	07	07	A	11	
08	33912	54100	084	441	33912	070725	D	005	00003	103	0106058	IN	FA0816428	00	0019	GUARDIAN HEALTHCARE PROVIDERS,	V621494290	00	07	07	A	11	
																		\$721,073.89					

\$721,073.89

Guardian Invoice Log from Western

2/12/09

Cost Ctr 54100 Obj Code 84441 Maximum Hours 20070 \$976,781.00
Special Hourly Rate for RN's for FY 2009 is \$48.50

Batch Date	Invoice Date	Invoice #	Period of Service	Number of Nurses	# Hours Invoiced	Amount of Invoice
					20070	\$976,781.00
8/11/2008	6/30/2008	0107187-CM	04/21-04/21/07	2	16	(\$727.50)
8/15/2008	6/30/2008	0107188-IN	06/29-06/30/08	8	100	\$4,850.00
7/22/2008	7/7/2008	0107189-IN	07/01-07/05/08	9	212.5	\$11,518.77
8/11/2008	7/17/2008	0107239-IN	07/06-07/12/08	9	336	\$16,296.00
8/11/2008	7/25/2008	0107255-IN	07/13-07/19/08	8	275	\$13,337.50
8/11/2008	7/31/2008	0107273-IN	07/20-07/26/08	7	248.5	\$12,052.25
8/14/2008	8/7/2008	0107296-IN	07/27-08/02/08	9	290.5	\$14,089.25
9/4/2008	8/14/2008	0107319-IN	08/03-08/09/08	9	325.5	\$15,786.75
8/28/2008	8/21/2008	0107336-IN	08/10-08/16/08	9	335	\$16,247.50
9/3/2008	8/26/2008	0107354-IN	08/17-08/23/08	9	337.5	\$16,368.75
9/10/2008	8/31/2008	0107385-IN	08/24-08/30/08	9	347.5	\$17,181.13
9/18/2008	9/15/2008	0107419-IN	08/31-09/06/08	10	360	\$18,369.39
9/24/2008	9/16/2008	0107428-IN	09/07-09/13/08	10	363.75	\$17,641.88
10/3/2008	9/23/2008	0107447-IN	09/14-09/20/08	10	337.5	\$16,368.75
10/6/2008	9/30/2008	0107481-IN	09/21-09/27/08	10	363	\$17,605.50
10/14/2008	10/10/2008	0107509-IN	09/28-10/04/08	10	371.5	\$18,017.75
10/22/2008	10/14/2008	0107520-IN	10/5-11/08	10	348	\$16,878.00
10/30/2008	10/24/2008	0107563-IN	10/12-18/08	10	337.5	\$16,368.75
11/6/2008	10/31/2008	0107588-IN	10/19-25/08	9	329.25	\$15,968.63

11/12/2008	11/7/2008 0107621-IN	10/26/08 - 11/01/08	9	299.5	\$14,525.76
11/20/2008	11/17/2008 0107649-IN	11/2-8/08	9	282.25	\$13,689.14
12/2/2008	11/20/2008 0107669-IN	11/9-15/08	8	312.5	\$15,156.25
12/4/2008	11/26/2008 0107698-IN	11/16-22/08	8	298.5	\$14,477.25
12/11/2008	11/30/2008 0107738-IN	11/23-29/08	8	250	\$13,034.39
12/17/2008	12/9/2008 0107750-IN	11/30/08-12/06/08	10	302.5	\$14,671.25
12/29/2008	12/18/2008 0107796-IN	12/7-13/08	10	348.75	\$16,914.38
12/29/2008	12/23/2008 0107802-IN	12/14-20/08	10	375	\$18,187.50
1/9/2009	12/31/2008 0107846-IN	12/21-27/08	10	364.25	\$18,915.03
1/14/2008	1/7/2009 0107858-IN	12/28/08-01/03/09	10	349	\$18,345.15
1/26/2009	1/16/2009 005643	1/04-10/09	8	287.25	\$13,931.63
1/26/2009	1/23/2009 005680	1/11-17/09	9	335.5	\$16,271.75
					\$463,066.03

CONTRACT SUMMARY SHEET

021908

RFS #	Contract #
33912.000506	FA-06-16428-06
State Agency	State Agency Division
Department of Mental Health and Developmental Disabilities	Western Mental Health Institute
Contractor Name	Contractor ID # (FEIN or SSN)
Guardian Healthcare Providers	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 621494290-00

Service Description			
Nursing Services			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
07/01/2005	06/30/2010	N/A	N/A

Mark Each TRUE Statement	
<input checked="" type="checkbox"/> Contractor is on STARS	<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
339.12	54100	084 441	11	N/A	N/A
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$1,794,000.00				\$1,794,000.00
2007	\$935,512.00				\$935,512.00
2008	\$973,388.00				\$973,388.00
2009	\$976,781.00				\$976,781.00
2009	\$0.00				\$0.00
2010	\$970,060.00.00				\$970,060.00
TOTAL:	\$5,649,741.00				\$5,649,741.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Gene Wood 12 th Floor, Andrew Johnson Tower 615-532-6676
2006	\$1,794,000.00		State Agency Budget Officer Approval
2007	\$935,512.00		
2008	\$973,388.00		
2009	\$976,781.00		
2009	\$0.00		
2010		\$970,060.00	Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	\$4,679,681.00	\$970,060.00	
End Date:	06/30/09	06/30/10	

Contractor Ownership (complete for ALL base contracts— N/A to amendments or delegated authorities)			
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT Minority/Disadvantaged
<input type="checkbox"/> Other			
Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)			
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation *	<input type="checkbox"/> Alternative Competitive Method *	
<input type="checkbox"/> Non-Competitive Negotiation *	<input type="checkbox"/> Negotiation w/ Government (ID, GG, GU)	<input type="checkbox"/> Other *	
* Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)			

**AMENDMENT SIX
TO FA 06 16428 00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the "State" and Guardian Healthcare Providers, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1. is deleted in its entirety and replaced with the following:

B.1. Contract Term. This contract shall be effective for the period commencing on July 1, 2005, and ending on June 30, 2010. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Five Million, Six Hundred Forty-Nine Thousand, Seven Hundred Forty-One Dollars (\$5,649,741.00). The payment rates in section C.3. shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payments Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. The text of Contract Section C.3. is deleted in its entirety and replaced with the following:

a. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

In the event the contract is amended to extend for additional years, the following formula will be used to calculate each year's cost per hour. The Consumer Price Index, medical care, Information can be found on the U.S. Government website at:
<http://www.bls.gov/cpi/cpiact3.htm>

- b. For services performed from July 1, 2005, through June 30, 2006, the Contractor shall be compensated based upon the following rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$64.00
Licensed Practical Nurse	\$42.00

For services performed from July 1, 2006 through June 30, 2007, the Contractor shall be compensated based upon the following payment rates with the exception of EB3-Visa Program Registered Nurses: **4.3% increase of FY 2006 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$66.75
Licensed Practical Nurse	\$43.80

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from December 15, 2006 through June 30, 2007.

- d. For services performed from July 1, 2007 through June 30, 2008, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **3.6% increase of FY 2007 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$69.15
Licensed Practical Nurse	\$45.38

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from July 1, 2007 through June 30, 2008.

- e. For services performed from July 1, 2008 through June 30, 2009, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **5.2% increase of FY 2008 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$72.75
Licensed Practical Nurse	\$47.74

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from July 1, 2008 through June 30, 2009.

- f. For services performed from July 1, 2009 through June 30, 2010, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **2.6% increase of FY 2009 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$74.64
Licensed Practical Nurse	\$48.98

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from July 1, 2009 through June 30, 2010.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the period, the applicable Payment Rate, the total compensation requested for the individual, and the total amount due the Contractor for the period invoiced.

The Contractor shall bill only for the hours worked.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

The revisions set forth herein shall be effective July 1, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

GUARDIAN HEALTHCARE PROVIDERS, INC.:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES:

VIRGINIA TROTTER BETTS, MSN, JD, RN, FAAN,
COMMISSIONER

DATE

APPROVED:

M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

DATE

DEBORAH E. STORY, COMMISSIONER
DEPARTMENT OF HUMAN RESOURCES

DATE

JUSTIN P. WILSON, COMPTROLLER OF THE TREASURY

DATE



GENERAL ASSEMBLY OF THE STATE OF TENNESSEE

FISCAL REVIEW COMMITTEE

320 Sixth Avenue, North – 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Rep. Charles Curtiss, Chairman
Representatives

Curt Cobb	Donna Rowland
Curtis Johnson	David Shepard
Gerald McCormick	Curry Todd
Mary Pruitt	Eddie Yokley
Craig Fitzhugh, <i>ex officio</i>	
Speaker Jimmy Naifeh, <i>ex officio</i>	

Sen. Douglas Henry, Vice-Chairman
Senators

Bill Ketron	Reginald Tate
Doug Jackson	Jamie Woodson
Paul Stanley	
Randy McNally, <i>ex officio</i>	
Lt. Governor Ron Ramsey, <i>ex officio</i>	

MEMORANDUM

TO: The Honorable Dave Goetz, Commissioner
Department of Finance and Administration

FROM: Charles Curtiss, Chairman, Fiscal Review Committee
Bill Ketron, Chairman, Contract Services Subcommittee

DATE: October 9, 2008

SUBJECT: **Contract Comments**
(Contract Services Subcommittee Meeting 10/7)

cc
BK

RFS# 339.12-005

Department: Mental Health & Developmental Disabilities

Division: Western Mental Health Institute

Contractor: Guardian Healthcare Providers, Inc.

Summary: The vendor is currently responsible for the provision of nursing staff, as needed, for the Western Mental Health Institute. The proposed amendment increases the number of shifts, from 30 to 40, to allow registered nurses to work overtime at this facility. The term, as well as the maximum liability, remains the same.

Maximum liability: \$4,679,681

Maximum liability w/amendment \$4,679,681

After review, the Fiscal Review Committee voted to recommend approval of the contract amendment.

cc: The Honorable Virginia Betts, Commissioner
Mr. Robert Barlow, Director, Office of Contracts Review



**STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES**

Cordell Hull Building - 3rd Floor
425 5th Avenue North
Nashville, Tennessee 37243

September 10, 2008

RECEIVED

SEP 11 2008

FISCAL REVIEW

MEMORANDUM TO:

Fiscal Review Committee

RE:

Non-Competitive Amendment Request
For Guardian Healthcare Providers, Inc.
For Nursing Services

FROM:

Linda Parker, Director
Program Support

A handwritten signature in black ink, appearing to be "LP" or similar initials, written over the printed name of Linda Parker.

This non-competitive amendment request is seeking an amendment to the Scope of Services which would allow overtime for contract nurses.

This contract with Guardian Healthcare Providers, Inc. was awarded through the Request for Proposals (RFP) process with an effective date of July 1, 2005. The base contract included the extension clause allowing the Department to extend the term for up to a period of five (5) years with additional funding as necessary, with the appropriate approval. The current contract is due to expire June 30, 2009, and the maximum liability for fiscal year 2009 is \$976,781.00.

This request is to revise the text of Contract Section A.1 and Section A.9. to allow overtime for these contract employees. We are not seeking an increase in the maximum liability of the contract.

Enclosed is the Request: Non-Competitive Amendment, Contract Summary Sheet, and the Proposed Amendment.

Your favorable consideration of this request will be appreciated. If you need additional information, please do not hesitate to let me know.

Thank you.

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	339.12-005	
2) State Agency Name :	Department of Mental Health and Developmental Disabilities, Western Mental Health Institute	
EXISTING CONTRACT INFORMATION		
3) Service Caption :	Nursing Services	
4) Contractor :	Guardian Healthcare Providers, Inc.	
5) Contract #	FA-06-16428-04	
6) Contract Start Date :		07/01/2005
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :		06/30/2009
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :		\$4,679,681
PROPOSED AMENDMENT INFORMATION		
9) <u>Proposed</u> Amendment #		05
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)		12/01/2008
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :		06/30/2009
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :		\$4,679,681
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
During Fiscal Year '08 WMHI nurses worked 726 shifts of 12.5 hours of overtime totaling 9075 hours. Thirty percent (30%) of these shifts were mandatory. If the Guardian nurses were allowed to be included in our overtime staffing requirements, mandatory overtime for our full time nurses could be reduced. This would obviously result in less work related stress for our employees, provide better utilization of existing resources, and ultimately improve our		

employee morale.

The Guardian nurses, under the current contract, are already working secondary employment elsewhere in the community to supplement income for their families. Allowing the Guardian nurses to work overtime under our supervision, increases the continuity of patient care by utilizing the same staff in a rotation. This also provides us the increased ability to monitor consecutive hours worked by all staff under our umbrella of supervision.

Most importantly, by allowing the Guardian nurses to assist with our overtime demands, we are able to create a schedule that allows our licensed nurses to provide safe quality of care to our patients; thereby, eliminating or decreasing staff fatigue and burnout.

WMHI respectfully requests your consideration to amend our current contract with Guardian Healthcare to allow for the inclusion of overtime in the contract that would be consistent with the policy and procedures established for nursing by the TDMHDD.

15) Explanation of Need for the Proposed Amendment :

To provide adequate number of Licensed Registered Nurses to meet staffing standards.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Renae McGregor, Chief Operating Officer, The Guardian Group, Inc., 105 West Park Drive, Suite 100, Brentwood, TN, 37027

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

The Request for Proposals (RFP) process was utilized, resulting in the contract being awarded to Guardian Healthcare Providers.

21) Justification for the Proposed Non-Competitive Amendment :

To utilize the existing nurses to fulfill staffing requirements.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)



Agency Head Signature

Date

CONTRACT SUMMARY SHEET

12-11-07

S#				Contract #			
339 . 12 —005				FA-06-16428-05			
State Agency				State Agency Division			
Mental Health and Developmental Disabilities				Western Mental Health Institute			
Contractor Name				Contractor ID # (FEIN or SSN)			
Guardian Healthcare Providers				<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V-		621494290-00	
Service Description							
Nursing Services							
Contract Begin Date		Contract End Date		SUBRECIPIENT or VENDOR?		CFDA #	
07/01/05		06/30/09		N/A		N/A	
Mark Each TRUE Statement							
<input checked="" type="checkbox"/> Contractor is on STARS				<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts			
Allotment Code		Cost Center		Object Code		Fund	
339.12		54100		084 441		11	
Funding Grant Code		Funding Subgrant Code					
N/A		N/A					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount		
2006	\$1,794,000.00				\$1,794,000.00		
2007	\$935,512.00				\$935,512.00		
2008	\$973,388.00				\$973,388.00		
2009	\$976,781.00				\$976,781.00		
2009	0.00				0.00		
TOTAL					\$4,679,681.00		

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #		
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Gene Wood 12 th Floor, Andrew Johnson Tower 615-532-6676 State Agency Budget Officer Approval 		
2006	\$1,794,000.00				
2007	\$935,512.00				
2008	\$973,388.00				
2009	\$976,781.00				
		\$0.00	Funding Certification (certification required by T.C.A. § 9-4-5113 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)		
TOTAL		\$4,679,681.00			\$0.00
End Date		06/30/09			06/30/09

Contractor Ownership (complete for ALL base contracts — N/A to amendments or delegated authorities)				
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> Government
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT Minority/Disadvantaged	
Contractor Selection Method (complete for ALL base contracts — N/A to amendments or delegated authorities)				
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation *	<input type="checkbox"/> Alternative Competitive Method *		
<input type="checkbox"/> Non-Competitive Negotiation *	<input type="checkbox"/> Negotiation w/ Government (ID, GG, GU)			
Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)				

**AMENDMENT FIVE
TO FA 06 16428 00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the "State" and Guardian Healthcare Providers, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section A.1. is deleted in its entirety and replaced with the following:

A.1. The contractor agrees to provide Registered Nurses and Licensed Practical Nurses. Western Mental Health Institute requires the services of Registered Nurses and Licensed Practical Nurses for the care and treatment of approximately 247 psychiatric patients (54 Acute Adults, 153 Long Term Care Adults, 40 Children and Adolescents). Coverage must be provided twenty-four (24) hours per day, seven (7) days per week. The State shall not be obligated to use any particular minimum number of personnel. The Nurse Executive of WMHI will base the need for Registered Nurses and Licensed Practical Nurses on a review of the patient load and available staff. Requests for services will be coordinated between the Contractor or his/her representative and the Nurse Executive of WMHI. Work hours are defined as actual work time on duty at Western Mental Health Institute.

Registered Nurses (as needed) (up to 40 shifts per week at 12.5 hours per shift)

Licensed Practical Nurses (as needed) (up to 1 shift per week at 12.5 hours per shift)

This is an estimated maximum number of personnel to be used as needed. The State shall not be obligated to use a particular minimum number of personnel. Work hours are defined as actual work time of duty at Western Mental Health Institute. The State will pay overtime rates beyond the 40-hour workweek at the rate of one and one half (1½) times the regular hourly rate. No additional pay is made for weekends and holidays; except for the Holidays listed in this Scope of Services under A.9. Time and Attendance. These staff nurses may be scheduled to work on either of the shifts based on the staff needs as determined by Western Mental Health Institute. Nurses must be available within four (4) hours of call to agency. The Contractor must respond either affirming or passing its ability to provide the requested services in the required time frame. Failure to respond or late response will be deemed a denial. Detailed records of each contact will be kept. Nurses scheduled in advance may be cancelled with a four (4) hour notice prior to the start of the shift without any charge to Western Mental Health Institute. Notice to the agency of less than four (4) hours notice will result in a maximum of four (4) hours being billed to the State.

2. The text of Contract Section A.9. is deleted in its entirety and replaced with the following:

A.9. Time and Attendance

<u>Shift</u>	<u>Time</u>	<u>Meal Break</u>	<u>Total Paid</u>
1	6:30 AM – 8:00 PM	1 hour	12.5 hours
2	5:30 PM – 7:00 AM	1 hour	12.5 hours

Payment is authorized for 12.5 hours/shift with the expectation that the nurse will take a full meal break. If the agency staff member is late or leaves early, this time cannot be made up by shortening or eliminating a meal break.

Holiday rates will be paid only for the following State and Federal holidays at the rate of one and one half (1½) times the regular hourly rate:

- ❖ New Years Day
- ❖ Memorial Day

- ❖ Independence Day
- ❖ Labor Day
- ❖ Thanksgiving Day
- ❖ Christmas Day

Overtime rates for time worked beyond 40 hours per week will be paid by Western Mental Health Institute at the rate of one and one half (1½) times the regular hourly rate.

It is the responsibility of the agency to provide replacement coverage if agency staff call in or fail to report for duty.

Only a Western Mental Health Institute Shift Supervisor is authorized to sign an agency staff's charge slip. Final approval is provided by the Nurse Executive or designee.

The revisions set forth herein shall be effective December 1, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

Guardian Healthcare Providers, Inc.:

Diana M. Hagen 10/20/08
CONTRACTOR SIGNATURE DATE

Renee McGregor COO
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

Department of Mental Health and Developmental Disabilities:

Virginia J. Betts 10-28-08
Virginia Trotter Betts, MSN, JD, RN, FAAN, Commissioner DATE

APPROVED:

M. D. Goetz Jr. / sc 11/6/08
M. D. GOETZ, JR., COMMISSIONER DATE
DEPARTMENT OF FINANCE AND ADMINISTRATION

NOT APPLICABLE

DEBORAH E. STORY, COMMISSIONER DATE

DEPARTMENT OF HUMAN RESOURCES

John G. Morgan

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

11/16/08



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE**

320 Sixth Avenue, North - 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Rep. Charles Curtiss, Chairman

Representatives

Curt Cobb	Donna Rowland
Curtis Johnson	David Shepard
Gerald McCormick	Curry Todd
Mary Pruitt	Eddie Yokley
Craig Fitzhugh, <i>ex officio</i>	
Speaker Jimmy Naifeh, <i>ex officio</i>	

Sen. Douglas Henry, Vice-Chairman

Senators

Doug Jackson	Reginald Tate
Bill Ketron	Jamie Woodson
Paul Stanley	
Randy McNally, <i>ex officio</i>	
Lt. Governor Ron Ramsey, <i>ex officio</i>	

M E M O R A N D U M

TO: The Honorable Dave Goetz, Commissioner
Department of Finance and Administration

FROM: Charles Curtiss, Chairman, Fiscal Review Committee
Bill Ketron, Chairman, Contract Services Subcommittee *cc BK*

DATE: March 28, 2008

SUBJECT: **Contract Comments**
(Contract Services Subcommittee Meeting 3/24/08)

RFS# 339.12-005

Department: Mental Health and Developmental Disabilities

Contractor: Guardian Healthcare Providers, Inc.

Summary: The original contract was for the provision of nursing services at the Western Mental Health Institute. The proposed amendment extends the term of the current contract for an additional year, through June 30, 2009, and increases the maximum liability by \$976,781.

Maximum liability: \$3,702,900

Maximum liability w/amendment: \$4,679,681

After review, the Fiscal Review Committee voted to recommend approval of the contract amendment.

cc: The Honorable Virginia Betts, Commissioner
Mr. Robert Barlow, Director, Office of Contracts Review



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MAR 19 2008

FISCAL REVIEW

STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
MENTAL HEALTH SERVICES
Cordell Hull Building - 3rd Floor
425 5th Avenue North
Nashville, Tennessee 37243

March 18, 2008

TO: Fiscal Review Committee

FROM: Linda Parker, Director *Linda Parker*
Program Support

RE: Non Competitive Amendment Request
Nursing Services – Guardian Healthcare Providers, Inc.

In 2005 a Request for Proposals (RFP) was issued for nursing services to be provided at the Western Mental Health Institute. Guardian Healthcare Providers, Inc. was the successful proposer. The initial contract contained the term extension clause, which has been exercised each subsequent year to extend the term and add additional funding.

This request is for authorization to extend the term through June 30, 2009 and add dollars. The amount of funding requested for fiscal year 2009 is \$976,781, which would bring the total maximum liability to \$4,679,681. A draft of the proposed Amendment and prior amendments together with the base contract are included for your review.

Please let me know if you need additional information.

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

RECEIVED

MAR 19 2008

FISCAL REVIEW

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS # 339.12-005-06

2) State Agency Name : Department of Mental Health and Developmental Disabilities, Western Mental Health Institute

EXISTING CONTRACT INFORMATION

3) Service Caption : Nursing Services

4) Contractor : Guardian Healthcare Providers, Inc.

5) Contract # FA-06-16428-03

6) Contract Start Date : 07/01/2005

7) Current Contract End Date IF all Options to Extend the Contract are Exercised : 06/30/20108) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$5,865,177.00

PROPOSED AMENDMENT INFORMATION

9) Proposed Amendment # 0410) Proposed Amendment Effective Date : 07/01/2008
(attached explanation required if date is < 60 days after F&A receipt)11) Proposed Contract End Date IF all Options to Extend the Contract are Exercised : 06/30/201012) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$5,865,177.00

13) Approval Criteria : (select one)

☒ use of Non-Competitive Negotiation is in the best interest of the state

☐ only one uniquely qualified service provider able to provide the service

14) Description of the Proposed Amendment Effects & Any Additional Service :

This Contract was a result of RFP# 339.12-005 that was released on April 15, 2005. The RFP process resulted in the current contract with Guardian Healthcare Providers.

This amendment does not change the qualifications of the personnel, background check, or duties performed. The only effect is to utilize the option to extend the contract through Fiscal Year 2009.

15) Explanation of Need for the Proposed Amendment :

To provide adequate number of Licensed Registered Nurses to meet staffing standards.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Renae McGregor, Chief Operating Officer, The Guardian Group, Inc., 105 West Park Drive, Suite 100, Brentwood, TN, 37027

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

The Request for Proposals (RFP) process was utilized, resulting in the contract being awarded to Guardian Healthcare Providers.

21) Justification for the Proposed Non-Competitive Amendment :

To utilize the term extension clause and extend the term of the current contract through June, 2009 and add additional dollars.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

Agency Head Signature

Date

CONTRACT SUMMARY SHEET

12-11-07

RF# #		Contract #	
339 . 12 — 005 —		FA-06-16428-04	
State Agency		State Agency Division	
Mental Health and Developmental Disabilities		Western Mental Health Institute	
Contractor Name		Contractor ID # (FEIN or SSN)	
Guardian Healthcare Providers		<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 621494290-00	
Service Description			
Nursing Services			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
07/01/05	06/30/09	N/A	N/A

Mark Each TRUE Statement

☒ Contractor is on STARS

☒ Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
339.12	54100	084 441	11	N/A	N/A
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$1,794,000.00				\$1,794,000.00
2007	\$935,512.00				\$935,512.00
2008	\$973,388.00				\$973,388.00
2009	\$976,781.00				\$976,781.00
TOTAL:	\$4,679,681.00				\$4,679,681.00

RECEIVED

AUG 26 2008

FISCAL REVIEW

— COMPLETE FOR AMENDMENTS ONLY —

State Agency Fiscal Contact & Telephone #

Gene Wood
12th Floor, Andrew Johnson Tower
615-532-6676

State Agency Budget Officer Approval

Funding Certification (certification required by DC Act 9-113 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)

FY	Base Contract & Prior Amendments	THIS Amendment ONLY
2006	\$1,794,000.00	
2007	\$935,512.00	
2008	\$973,388.00	
2009		\$976,781.00
TOTAL:	\$3,702,900.00	\$976,781.00
End Date:	06/30/08	06/30/09

Contractor Ownership (complete for ALL base contracts—N/A to amendments or delegated authorities)

- | | | | | |
|---|---|--|---|-------------------------------------|
| <input type="checkbox"/> African American | <input type="checkbox"/> Person w/ Disability | <input type="checkbox"/> Hispanic | <input type="checkbox"/> Small Business | <input type="checkbox"/> Government |
| <input type="checkbox"/> Asian | <input type="checkbox"/> Female | <input type="checkbox"/> Native American | <input type="checkbox"/> NOT Minority/Disadvantaged | |

Contractor Selection Method (complete for ALL base contracts—N/A to amendments or delegated authorities)

- | | | |
|--|---|---|
| <input type="checkbox"/> RFP | <input type="checkbox"/> Competitive Negotiation * | <input type="checkbox"/> Alternative Competitive Method * |
| <input type="checkbox"/> Non-Competitive Negotiation * | <input type="checkbox"/> Negotiation w/ Government (ID, GG, GU) | |

* Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)

RECEIVED
 AUG 26 2008
 OFFICE OF
 MANAGEMENT SERVICES

**AMENDMENT FOUR
TO FA 06 16428 00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the "State" and Guardian Healthcare Providers, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1. is deleted in its entirety and replaced with the following:

B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2005, and ending on June 30, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Four Million, Six Hundred Seventy-Nine Thousand, Six Hundred Eighty-One Dollars (\$4,679,681.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. The text of Contract Section C.3. is deleted in its entirety and replaced with the following:

- a. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

In the event the contract is amended to extend for additional years, the following formula will be used to calculate each year's cost per hour. The Consumer Price Index, medical care, information can be found on the U.S. Government website at: <http://www.bls.gov/cpi/cpifact3.htm>

- b. For services performed from July 1, 2005, through June 30, 2006, the Contractor shall be compensated based upon the following rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$64.00
Licensed Practical Nurse	\$42.00

- c. For services performed from July 1, 2006 through June 30, 2007, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: 4.3% increase of FY 2006 rate.

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$66.75
Licensed Practical Nurse	\$43.80

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from December 15, 2006 through June 30, 2007.

- d. For services performed from July 1, 2007 through June 30, 2008, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **3.6% increase of FY 2007 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$69.15
Licensed Practical Nurse	\$45.38

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from July 1, 2007 through June 30, 2008.

- e. For services performed from July 1, 2008 through June 30, 2009, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **5.2% increase of FY 2008 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$72.75
Licensed Practical Nurse	\$47.74

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from July 1, 2008 through June 30, 2009.

- f. If services are performed from July 1, 2009, through June 30, 2010, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.e. above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2008 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
- g. If services are performed by Registered Nurses working at the State under the EB3 Visa Program from July 1, 2008 through June 30, 2010, the Contractor shall be compensated based upon the payment methodology in Section C.3.e. and C.3.f.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the period, the applicable Payment Rate, the total compensation requested for the individual, and the total amount due the Contractor for the period invoiced.

The Contractor shall bill only for the hours worked. The Contractor shall not bill more than the hourly rate even if the Contractor works more than twelve and one-half (12 1/2) hours in a day.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

The revisions set forth herein shall be effective July 1, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

Guardian Healthcare Providers, Inc.:



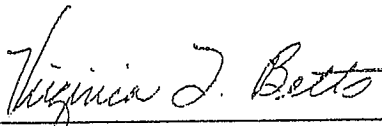
CONTRACTOR SIGNATURE

4/15/08
DATE

Renee McGregor, COO

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

Department of Mental Health & Developmental Disabilities:



Virginia Trotter Betts, MSN, JD, RN, FAAN, Commissioner

5.1.08
DATE

APPROVED:

M.D. Goetz, Jr. JP

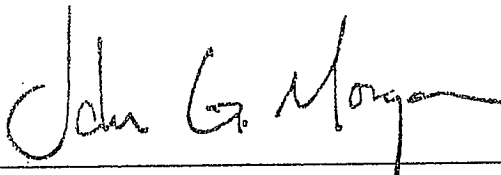
M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

5-9-08
DATE

N/A

DEBORAH E. STORY, COMMISSIONER
DEPARTMENT OF HUMAN RESOURCES

DATE



JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

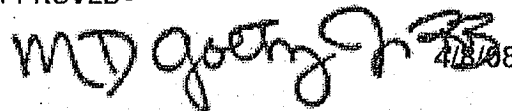
5/12/08
DATE

REQUEST: NON-COMPETITIVE AMENDMENT

cy08-372

This request, reviewed by the
Commissioner of Finance & Administration,
is hereby filed with the Comptroller of the
Treasury pursuant to the rules of the
Department of Finance & Administration,
Chapter 621-3-3, regarding Professional
& Consulting Service Contracts.

APPROVED per FRC recommendation



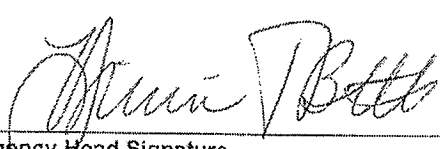
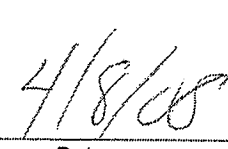
Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	339.12-005-06		
2) State Agency Name :	Department of Mental Health and Developmental Disabilities, Western Mental Health Institute		
EXISTING CONTRACT INFORMATION			
3) Service Caption :	Nursing Services		
4) Contractor :	Guardian Healthcare Providers, Inc.		
5) Contract #	FA-06-16428-03		
6) Contract Start Date :	07/01/2005	<div style="writing-mode: vertical-rl; transform: rotate(180deg);"> RECEIVED 2008 MAY -9 PM 12:35 COMPTROLLER'S OFFICE OFFICE OF MANAGEMENT SERVICES </div>	
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	06/30/2008		
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$3,702,900		
PROPOSED AMENDMENT INFORMATION			
9) <u>Proposed</u> Amendment #	04		
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	07/01/2008		
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	06/30/2009		
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$4,679,681		
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service		
14) Description of the Proposed Amendment Effects & Any Additional Service :			
<p>This Contract was the result of RFP# 339.12-005 that was released on April 15, 2005. The RFP process resulted in the current contract with Guardian Healthcare Providers which provides for a term extension for a total contract term of no more than five (5) years.</p> <p>This amendment request extends the term through June 30, 2009 and adds funding. It does not change the qualifications of the personnel, background check, or duties performed.</p>			

OCR
4/8/08
RECEIVED

15) Explanation of Need for the Proposed Amendment :	
To provide adequate number of Licensed Registered Nurses to meet staffing standards.	
16) Name & Address of Contractor's Current Principal Owner(s) : (<u>not</u> required if proposed contractor is a state education institution)	
Rena McGregor, Chief Operating Officer, The Guardian Group, Inc., 105 West Park Drive, Suite 100, Brentwood, TN, 37027	
17) Documentation of Office for Information Resources Endorsement : (required <u>only</u> if the subject service involves information technology)	
select one:	<input checked="checked" type="checkbox"/> Documentation Not Applicable to this Request <input type="checkbox"/> Documentation Attached to this Request
18) Documentation of Department of Personnel Endorsement : (required <u>only</u> if the subject service involves training for state employees)	
select one:	<input checked="checked" type="checkbox"/> Documentation Not Applicable to this Request <input type="checkbox"/> Documentation Attached to this Request
19) Documentation of State Architect Endorsement : (required <u>only</u> if the subject service involves construction or real property related services)	
select one:	<input checked="checked" type="checkbox"/> Documentation Not Applicable to this Request <input type="checkbox"/> Documentation Attached to this Request
20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :	
The Request for Proposals (RFP) process was utilized, resulting in the contract being awarded to Guardian Healthcare Providers.	
21) Justification for the Proposed Non-Competitive Amendment :	
To utilize the term extension clause and extend the term of the current contract through June, 2009 and add additional dollars.	
REQUESTING AGENCY HEAD SIGNATURE & DATE : (<u>must</u> be signed & dated by the <u>ACTUAL</u> procuring agency head as detailed on the Signature Certification on file with OCR— signature- by an authorized signatory will be accepted only in documented exigent circumstances)	
	
Agency Head Signature	Date



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE**

320 Sixth Avenue, North - 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Rep. Charles Curtiss, Chairman
Representatives

Curt Cobb
Curtis Johnson
Gerald McCormick
Mary Pruitt
Craig Fitzhugh, *ex officio*
Speaker Jimmy Naifeh, *ex officio*

Donna Rowland
David Shepard
Curry Todd
Eddie Yokley

Sen. Douglas Henry, Vice-Chairman
Senators

Doug Jackson
Bill Ketron
Paul Stanley
Randy McNally, *ex officio*
Lt. Governor Ron Ramsey, *ex officio*

Reginald Tate
Jamie Woodson

M E M O R A N D U M

TO: The Honorable Dave Goetz, Commissioner
Department of Finance and Administration

FROM: Charles Curtiss, Chairman, Fiscal Review Committee
Bill Ketron, Chairman, Contract Services Subcommittee

DATE: March 28, 2008

SUBJECT: Contract Comments
(Contract Services Subcommittee Meeting 3/24/08)

cc
BK

RFS# 339.12-005

Department: Mental Health and Developmental Disabilities

Contractor: Guardian Healthcare Providers, Inc.

Summary: The original contract was for the provision of nursing services at the Western Mental Health Institute. The proposed amendment extends the term of the current contract for an additional year, through June 30, 2009, and increases the maximum liability by \$976,781.

Maximum liability: \$3,702,900

Maximum liability w/amendment: \$4,679,681

After review, the Fiscal Review Committee voted to recommend approval of the contract amendment.

cc: The Honorable Virginia Betts, Commissioner
Mr. Robert Barlow, Director, Office of Contracts Review

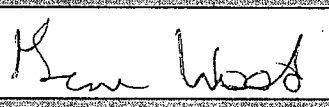
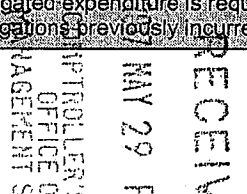
C O N T R A C T S U M M A R Y S H E E T

060706

RFS #	Contract #
339.12-005-06	FA— 06—16428—03
State Agency	State Agency Division
Mental Health and Developmental Disabilities	Western Mental Health Institute
Contractor Name	Contractor ID # (FEIN or SSN)
Guardian Healthcare Providers	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 621494290-00

Service Description			
Nursing Services			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
7/1/2005	6/30/08	N/A	N/A

Mark Each TRUE Statement					
<input checked="" type="checkbox"/> Contractor is on STARS			<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
339.12	54100	084 441	11	N/A	N/A
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$1,794,000.00				\$1,794,000.00
2007	\$935,512.00				\$935,512.00
2008	\$973,388.00				\$973,388.00
					\$0.00
					\$0.00
TOTAL:	\$3,702,900.00				\$3,702,900.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Gene Wood 12th Floor, Andrew Johnson Tower 615-532-6676
2006	\$1,794,000.00		State Agency Budget Officer Approval 
2007	\$935,512.00		
2008		\$973,388.00	
			Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	\$2,729,512.00	\$973,388.00	
End Date:	6/30/2007	6/30/2008	

Contractor Ownership (complete only for base contracts with contract # prefix: FA or GR)					
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT minority/disadvantaged	
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—		
Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities) N/A					
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation		<input type="checkbox"/> Alternative Competitive Method		
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (e.g., ID, GG, GU)		<input type="checkbox"/> Other		
Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)					

JAN - 5

**AMENDMENT THREE
TO CONTRACT FA 06 16428 00**

This Contract, by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the State, and Guardian Healthcare Providers, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section A.1. in its entirety and insert the following in its place:

- A.1. The contractor agrees to provide Registered Nurses and Licensed Practical Nurses. Western Mental Health Institute requires the services of Registered Nurses and Licensed Practical Nurses for the care and treatment of approximately 247 psychiatric patients (54 Acute Adults, 153 Long Term Care Adults, 40 Children and Adolescents). Coverage must be provided twenty-four (24) hours per day, seven (7) days per week. The State shall not be obligated to use any particular minimum number of personnel. The Nurse Executive of WMHI will base the need for Registered Nurses and Licensed Practical Nurses on a review of the patient load and available staff. Requests for services will be coordinated between the Contractor or his/her representative and the Nurse Executive of WMHI. Work hours are defined as actual work time on duty at Western Mental Health Institute.

Registered Nurses (as needed) (up to 30 shifts per week at 12.5 hours per shift)

Licensed Practical Nurses (as needed) (up to 1 shift per week at 12.5 hours per shift)

This is an estimated maximum number of personnel to be used as needed. The State shall not be obligated to use a particular minimum number of personnel. Work hours are defined as actual work time of duty at Western Mental Health Institute. The State will not pay overtime rates beyond the 40-hour workweek. It is the contractor's responsibility to monitor the agency nurses' time to insure no agency employee works beyond 40 hours per week. No additional pay is made for weekends and holidays; except for the Holidays listed in this Scope of Services under A.9. Time and Attendance.

These staff nurses may be scheduled to work on either of the shifts based on the staff needs as determined by Western Mental Health Institute. Nurses must be available within four (4) hours of call to agency. The Contractor must respond either affirming or passing its ability to provide the requested services in the required time frame. Failure to respond or late response will be deemed a denial. Detailed records of each contact will be kept.

Nurses scheduled in advance may be cancelled with a four (4) hour notice prior to the start of the shift without any charge to Western Mental Health Institute. Notice to the agency of less than four (4) hours notice will result in a maximum of four (4) hours being billed to the State.

2. Delete Section B.1. in its entirety and insert the following in its place:

- B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2005, and ending on June 30, 2008. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

3. Delete Section C.1. in its entirety and insert the following in its place:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Million, Seven Hundred Two Thousand, Nine Hundred Dollars (\$3,702,900.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor

performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

4. Delete Section C.3. in its entirety and insert the following in its place:

- a. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

In the event the contract is amended to extend for additional years, the following formula will be used to calculate each year's cost per hour. The Consumer Price Index, medical care, information can be found on the U.S. Government website at: <http://www.bls.gov/cpi/cpifact3.htm>

- b. For services performed from July 1, 2005, through June 30, 2006, the Contractor shall be compensated based upon the following rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$64.00
Licensed Practical Nurse	\$42.00

- c. For services performed from July 1, 2006 through June 30, 2007, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **4.3% increase of FY 2006 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$66.75
Licensed Practical Nurse	\$43.80

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from December 15, 2006 through June 30, 2007.

- d. For services performed from July 1, 2007 through June 30, 2008, the Contractor shall be compensated based upon the following payment rates with the exception of EB3 Visa Program Registered Nurses: **3.6% increase of FY 2007 rate.**

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$69.15
Licensed Practical Nurse	\$45.38

The Contractor shall be compensated at the **Payment Rate of \$48.50** per hour for Registered Nurses working at Western Mental Health Institute under the EB3 Visa Program from July 1, 2007 through June 30, 2008.

- e. If services are performed from July 1, 2008, through June 30, 2009, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.d. above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100 published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2007 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
- f. If services are performed from July 1, 2009, through June 30, 2010, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.e. above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100 published by the United States Department of

Labor, Bureau of Labor Statistics in December 31, 2008 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).

- g. If services are performed by Registered Nurses working at the State under the EB3 Visa Program from July 1, 2008 through June 30, 2010, the Contractor shall be compensated based upon the payment methodology in Section C.3.e. and C.3.f.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the period, the applicable Payment Rate, the total compensation requested for the individual, and the total amount due the Contractor for the period invoiced.

The Contractor shall bill only for the hours worked. The Contractor shall not bill more than the hourly rate even if the Contractor works more than twelve and one-half (12 1/2) hours in a day.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

GUARDIAN HEALTHCARE PROVIDERS

Signar M. Gray, COO 3/15/07
NAME AND TITLE DATE

Renae McGregor, Chief Operating Officer
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES:

Virginia J. Betts 3-28-07
VIRGINIA TROTTER BETTS, MSN, JD, RN, FAAN, COMMISSIONER DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr. 5/25/07
M. D. GOETZ, JR., COMMISSIONER DATE

DEPARTMENT OF PERSONNEL:

NOT APPLICABLE

DEBORAH E. STORY, COMMISSIONER DATE

COMPTROLLER OF THE TREASURY:

John G. Morgan 5/30/07
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

CONTRACT SUMMARY SHEET

060706

RFS #	Contract #
339.12-005-	FA—06—16428—02
State Agency	State Agency/Division
Mental Health and Developmental Disabilities	Western Mental Health Institute
Contractor Name	Contractor ID # (FEIN or SSN)
Guardian Healthcare Providers	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 621494290-00

Service Description			
Nursing Services			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
7/1/2005	6/30/07	N/A	N/A

Mark Each TRUE Statement	
<input checked="" type="checkbox"/> Contractor is on STARS	<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
339.12	54100	084441	11	N/A	N/A
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006				\$1,794,000.00	\$1,794,000.00
2007				\$935,512.00	\$935,512.00
				\$0.00	\$0.00
				\$0.00	\$0.00
				\$0.00	\$0.00
TOTAL:				\$2,729,512.00	\$2,729,512.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Gene Wood 12th Floor, Andrew Johnson Tower 615-532-6676
2006	\$1,794,000.00		State Agency Budget Officer Approval
2007	\$935,512.00		
2007		0.00	
			Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	\$2,729,512.00	0.00	
End Date:	6/30/2007	6/30/2007	

Contractor Ownership (complete only for base contracts with contract # prefix FA or GR)				
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

Contractor Selection Method (complete for ALL base contracts—N/A to amendments or delegated authorities) N/A	
<input type="checkbox"/> RFP <input type="checkbox"/> Non-Competitive Negotiation	<input checked="" type="checkbox"/> Competitive Negotiation <input type="checkbox"/> Negotiation w/ Government (e.g., ID, GG, GU)
<input type="checkbox"/> Alternative Competitive Method <input type="checkbox"/> Other	

Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)	
<div style="text-align: center;"> </div>	

**AMENDMENT TWO
TO CONTRACT FA 06 16428 00**

This Contract, by and between the State of Tennessee, Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the State, and Guardian Healthcare Providers, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section C.3. in its entirety and insert the following in its place:

C.3. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor shall be compensated based upon the following Payment Rates.

- a. For services performed from July 1, 2005, through June 30, 2006, the Contractor shall be compensated based upon the following Payment Rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$64.00
Licensed Practical Nurse	\$42.00

- b. For services performed from July 1, 2006, through June 30, 2007, the Contractor shall be compensated based upon following rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$66.75
Licensed Practical Nurse	\$43.80

- c. If services are performed from July 1, 2007, through June 30, 2008, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.b. above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2006 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
- d. If services are performed from July 1, 2008, through June 30, 2009, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.c. above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2007 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
- e. If services are performed from July 1, 2009, through June 30, 2010, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.d. above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2008 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
- f. For services performed by Registered Nurses working at the State under the EB3 Visa Program from December 15, 2006 through June 30, 2007, the Contractor shall be compensated based upon the following Payment Rate:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$48.50

- g. If services are performed by Registered Nurses working at the State under the EB3 Visa Program from July 1, 2007 through June 30, 2010, the Contractor shall be compensated based upon the payment methodology in Section C.3.c., C.3.d. and C.3.e..

The Contractor shall bill only for the hours worked. The Contractor shall not bill more than the hourly rate even if the Contractor works more than twelve and one-half (12 1/2) hours in a day.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service for the amount stipulated.

- 2. Add the following as Section D.8. and renumber any subsequent sections as necessary:

D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to state officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- 3. Add the following as Section E.11 and renumber any subsequent sections as necessary:

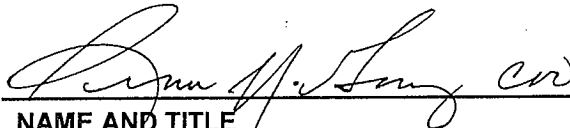
E.11. EB3 Visa Employees. The Contractor acknowledges and understands that it is the responsibility of the Contractor and the Contractor must obtain the approval of both the U.S. Department of Labor (DOL) and the U.S. Citizenship and Immigration Services prior to providing EB3 Registered Nurses to the State under the terms of this Contract. The Contractor is responsible for complying with all Federal requirements under the EB3 Visa Program and ensuring continued compliance with all Federal regulations related to the EB3 Visa Program during the course of this Contract.

- a. This Contract does not imply that the State will employ a minimum or maximum number of Registered Nurses under the EB3 program. The employment of EB3 Registered Nurses is at the sole discretion of the State.
- b. All Registered Nurses employed under Section E.11 may be employed for any period of time covered under this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

GUARDIAN HEALTHCARE PROVIDERS, INC.:

 COO 12/19/06
NAME AND TITLE DATE

Renae McGregor, Chief Operating Officer

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES:

 12-20-06
Virginia Trotter Betts, MSN, JD, RN, FAAN, Commissioner DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

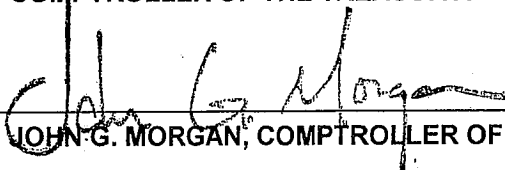
 JR 12-21-06
M. D. GOETZ, JR., COMMISSIONER DATE

DEPARTMENT OF PERSONNEL:

NOT APPLICABLE

DEBORAH E. STORY, COMMISSIONER DATE

COMPTROLLER OF THE TREASURY:

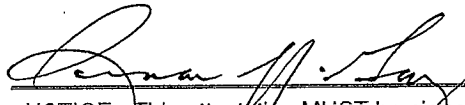
 12/28/06
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

ATTACHMENT 1**ATTESTATION RE PERSONNEL USED IN CONTRACT
PERFORMANCE**

SUBJECT CONTRACT NUMBER:	FA - 06 -16428 -00
CONTRACTOR LEGAL ENTITY NAME:	Guardian Healthcare Providers, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	62-1494290

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

**SIGNATURE &
DATE:**

 CO 12/19/06

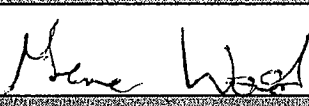
NOTICE. This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

CONTRACT SUMMARY SHEET

021406

RFS #		Contract #	
339.12-005		FA 06 16428 01	
State Agency		State Agency/Division	
Mental Health and Developmental Disabilities		Western Mental Health Institute	
Contractor Name		Contractor ID # (FEIN or SSN)	
Guardian Healthcare Providers		<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 621494290-00	
Service Description			
Nursing Services			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
7/1/2005	6/30/07		

Mark Each TRUE Statement					
<input checked="" type="checkbox"/> Contractor is on STARS			<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
339.12	54100	084 441	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006				\$1,794,000.00	\$1,794,000.00
2007				\$935,512.00	\$935,512.00
JUN 21 2006					
TO ACCOUNTS					
TOTAL:				\$2,729,512.00	\$2,729,512.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Gene Wood 12 th Floor, Andrew Johnson Tower 615-532-6676	
2006	\$1,794,000.00		State Agency Budget Officer Approval 	
2007		\$935,512.00		
Funding Certification (certification required by 49 CFR § 91.5113 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)			JUN 22 2006 RECEIVED OFFICE OF CONTRACT SERVICES JUN 16 AM 10 20	
TOTAL:	\$1,794,000.00	\$935,512.00		
End Date:	6/30/06	6/30/07		

Contractor Ownership (complete only for base contracts with contract # prefix FA or GR)				
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	
Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)				
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method		
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (e.g. ID, GS, ICU)	<input type="checkbox"/> Other		
Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)				

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RECEIVED

**AMENDMENT ONE
TO CONTRACT FA 06 16428 00**

This Contract, by and between the State of Tennessee, Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the State, and Guardian Healthcare Providers, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section A.1. in its entirety and insert the following in its place:

A.1. The contractor agrees to provide Registered Nurses and Licensed Practical Nurses.

Western Mental Health Institute requires the services of Registered Nurses and Licensed Practical Nurses for the care and treatment of approximately 247 psychiatric patients (54 Acute Adults, 153 Long Term Care Adults, 40 Children and Adolescents). Coverage must be provided twenty-four (24) hours per day, seven (7) days per week. The State shall not be obligated to use any particular minimum number of personnel. The Nurse Executive of WMHI will base the need for Registered Nurses and Licensed Practical Nurses on a review of the patient load and available staff. Requests for services will be coordinated between the Contractor or his/her representative and the Nurse Executive of WMHI. Work hours are defined as actual work time on duty at Western Mental Health Institute.

Registered Nurses (as needed) (up to 15 shifts per week at 12.5 hours per shift)

Licensed Practical Nurses (as needed) (up to 10 shifts per week at 12.5 hours per shift)

This is an estimated maximum number of personnel to be used as needed. The State shall not be obligated to use a particular minimum number of personnel. Work hours are defined as actual work time of duty at Western Mental Health Institute. The State will not pay overtime rates beyond the 40-hour workweek. It is the contractor's responsibility to monitor the agency nurses' time to insure no agency employee works beyond 40 hours per week. No additional pay is made for weekends and holidays; except for the Holidays listed in this Scope of Services under A.9. Time and Attendance.

These staff nurses may be scheduled to work on either of the shifts based on the staff needs as determined by Western Mental Health Institute. Nurses must be available within four (4) hours of call to agency. The Contractor must respond either affirming or passing its ability to provide the requested services in the required time frame. Failure to respond or late response will be deemed a denial. Detailed records of each contact will be kept.

Nurses scheduled in advance may be cancelled with a four (4) hour notice prior to the start of the shift without any charge to Western Mental Health Institute. Notice to the agency of less than four (4) hours notice will result in a maximum of four (4) hours being billed to the State.

2. Delete Section B.1. in its entirety and insert the following in its place:

B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2005, and ending on June 30, 2007. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

3. Delete Section C.1. in its entirety and insert the following in its place:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Million Seven Hundred Twenty-Nine Thousand, Five Hundred Twelve Dollars (\$2,729,512.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to

the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

4. Delete Section C.3. in its entirety and insert the following in its place:

C.3. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor shall be compensated based upon the following Payment Rates.

- a. For services performed from July 1, 2005, through June 30, 2006, the Contractor shall be compensated based upon the following Payment Rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$64.00
Licensed Practical Nurse	\$42.00

- b. In the event the contract is amended to extend for additional years, the following formula will be used to calculate each year's cost per hour. The Consumer Price Index, medical care, information can be found on the U.S. Government website at:

<http://www.bls.gov/cpi/cpifact3.htm>

1. For services performed from July 1, 2006, through June 30, 2007, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2005 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %). = 4.3% increase.

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$66.75
Licensed Practical Nurse	\$43.80

2. For services performed from July 1, 2007, through June 30, 2008, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2006 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
3. For services performed from July 1, 2008, through June 30, 2009, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2007 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
4. For services performed from July 1, 2009, through June 30, 2010, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States

Department of Labor, Bureau of Labor Statistics in December 31, 2008 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).

The Contractor shall bill only for the hours worked. The Contractor shall not bill more than the hourly rate even if the Contractor works more than twelve and one-half (12 1/2) hours in a day.

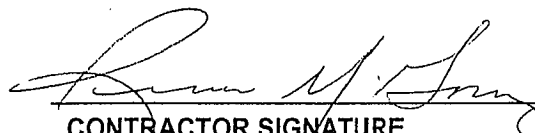
The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service for the amount stipulated.

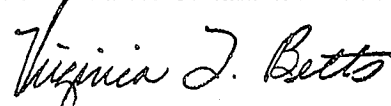
The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF,

GUARDIAN HEALTHCARE PROVIDERS, INC.:

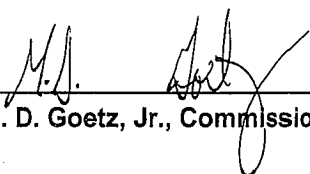
 4/6/06
CONTRACTOR SIGNATURE DATE
Renae Mc Gregor, Chief Operating Officer
CONTRACTOR SIGNATORY PRINTED NAME AND TITLE

DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES:

 6-5-06
Virginia Trotter Betts, MSN, JD, RN, FAAN, Commissioner DATE

APPROVED:

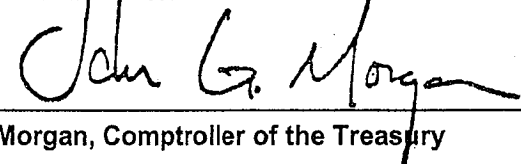
DEPARTMENT OF FINANCE AND ADMINISTRATION:

 6/15/06
M. D. Goetz, Jr., Commissioner DATE


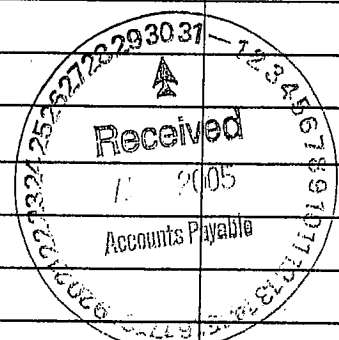
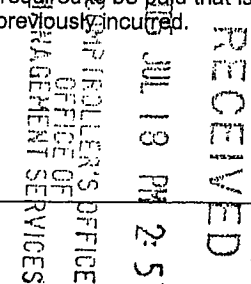
DEPARTMENT OF PERSONNEL:

N/A
Nat E. Johnson, Acting Commissioner DATE

COMPTROLLER OF THE TREASURY:

 6/19/06
John G. Morgan, Comptroller of the Treasury DATE

CONTRACT SUMMARY SHEET

C O N T R A C T S U M M A R Y S H E E T									
RFS Number:		339.12-005			Contract Number:		FA 06 / 6428 W		
State Agency:		Mental Health and Developmental Disabilities			Division:		Western Mental Health Institute		
Contractor					Contractor Identification Number				
Guardian Healthcare Providers					<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-		621494290-00		
Service Description									
Nursing Services									
Contract Begin Date					Contract End Date				
7/1/2005					6/30/2006				
Allotment Code		Cost Center		Object Code		Fund		Grant	
339.12		54100		084 441		11		<input checked="" type="checkbox"/> on STARS	
Grant Code		Subgrant Code							
FY		State Funds		Federal Funds		Interdepartmental Funds		Other Funding	
2006								\$1,794,000.00	
Total:								\$1,794,000.00	
								\$1,794,000.00	
CFDA #					Check the box ONLY if the answer is YES:				
State Fiscal Contact					Is the Contractor a SUBRECIPIENT? (per OMB A-133)				
Name: Gene Wood					Is the Contractor a VENDOR? (per OMB A-133)				
Address: 12 th Floor, Andrew Johnson Tower					Is the Fiscal Year Funding STRICTLY LIMITED?				
Phone: 615-532-6676					Is the Contractor on STARS?				
Procuring Agency Budget Officer Approval Signature					Is the Contractor's FORM W-9 ATTACHED?				
					Is the Contractors Form W-9 Filed with Accounts?				
COMPLETE FOR ALL AMENDMENTS (only)					Funding Certification				
Base Contract & Prior Amendments		This Amendment ONLY			Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.				
END DATE →									
FY:									
FY:									
FY:									
FY:									
Total:									
									
					AUG 24 2005				

DIRECTOR OF ACCOUNTS

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES,
WESTERN MENTAL HEALTH INSTITUTE
AND
GUARDIAN HEALTHCARE PROVIDERS, INC.**

This Contract, by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Western Mental Health Institute, hereinafter referred to as the "State" and Guardian Healthcare Providers, hereinafter referred to as the "Contractor," is for the provision of Nursing Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is A FOR-PROFIT CORPORATION. The Contractor's address is:

109 West Park Drive, Suite 300
Brentwood, TN 37027

The Contractor's place of incorporation or organization is Tennessee.

A. SCOPE OF SERVICES:

A.1. The contractor agrees to provide Registered Nurses and Licensed Practical Nurses.

Western Mental Health Institute requires the services of Registered Nurses and Licensed Practical Nurses for the care and treatment of approximately 247 psychiatric patients (54 Acute Adults, 153 Long Term Care Adults, 40 Children and Adolescents). Coverage must be provided twenty-four (24) hours per day, seven (7) days per week. The State shall not be obligated to use any particular minimum number of personnel. The Nurse Executive of WMHI will base the need for Registered Nurses and Licensed Practical Nurses on a review of the patient load and available staff. Requests for services will be coordinated between the Contractor or his/her representative and the Nurse Executive of WMHI. Work hours are defined as actual work time on duty at Western Mental Health Institute.

Registered Nurses (as needed) (up to 30 shifts per week at 12.5 hours per shift)

Licensed Practical Nurses (as needed) (up to 20 shifts per week at 12.5 hours per shift)

This is an estimated maximum number of personnel to be used as needed. The State shall not be obligated to use a particular minimum number of personnel. Work hours are defined as actual work time of duty at Western Mental Health Institute. The State will not pay overtime rates beyond the 40-hour workweek. It is the contractor's responsibility to monitor the agency nurses' time to insure no agency employee works beyond 40 hours per week. No additional pay is made for weekends and holidays; except for the Holidays listed in this Scope of Services under A.9. Time and Attendance.

These staff nurses may be scheduled to work on either of the shifts based on the staff needs as determined by Western Mental Health Institute. Nurses must be available within four (4) hours of call to agency. The Contractor must respond either affirming or passing its ability to provide the requested services in the required time frame. Failure to respond or late response will be deemed a denial. Detailed records of each contact will be kept.

Nurses scheduled in advance may be cancelled with a four (4) hour notice prior to the start of the shift without any charge to Western Mental Health Institute. Notice to the agency of less than four (4) hours notice will result in a maximum of four (4) hours being billed to the State.

A.2. The Contractor agrees that it shall not provide any services pursuant to this contract until the following conditions are met:

A.2.a The Contractor shall screen all staff provided to Western Mental Health Institute under this contract and certify that all Registered Nurses and Licensed Practical Nurses are licensed by the State of

Tennessee. Copies of certifications, transcripts, licensure and curriculum vitae and professional references must be provided to Western Mental Health Institute by the Contractor.

- A.2.b Contractor has verified personal and professional references and conducted a criminal background check to insure that no candidate has been convicted of a felony or has current charges outstanding which would constitute a felony in the State of Tennessee. In addition no candidate appears on the TBI Sexual Offender Registry or the Elderly Abuse Registry.
- A.2.c Contractor shall warrant that all candidates are drug free and provide annual drug screens, as well as random drug screening at the request of the State. Contractor will warrant that no candidates are in the Nursing Peer Assistance Program. Western Mental Health Institute will not accept any candidate in the Nursing Peer Assistance Program.
- A.2.d The Contractor warrants that no candidate who is a former employee of the State of Tennessee shall be referred within six (6) months of such person's final separation from employment with the State of Tennessee or during the period the former employee is eligible for re-employment with the State of Tennessee in accordance with the Rule Number 1120-2-10(8) of the rules of the Tennessee Department of Personnel. Further, no former employee shall be referred who was dismissed for cause, or with or without cause during a probationary period, or resigned not in good standing from employment with the State of Tennessee.
- A.2.e The Contractor's personnel shall not be deemed for any purpose to be employees of the State. With respect to the Contractor's personnel, the Contractor shall be responsible for payroll, benefits, workers compensation, withholding of all state and federal taxes, and depositing same at the appropriate times and places.
- A.2.f The Contractor agrees that the State will not pay any liquidated damages or other fees to the Contractor in the event of the subsequent employment by the State of an employee of the Contractor.
- A.2.g The State shall be the sole judge of the Contractor's personnel performance. The Contractor agrees to remove and replace (at its own expense) any personnel judged by the State as not providing satisfactory services. The Contractor further agrees not to charge the State for any services performed which the State designates as being unacceptable.
- A.2.h The Contractor agrees to provide proof of professional liability insurance amounting to not less than one million dollars (\$1,000,000.00) per each occurrence and at least three million dollars (\$3,000,000.00) general aggregate, prior to providing services pursuant to this contract.

A.3. The Contractor agrees that all services provided will meet or exceed the following standards and laws:

- A.3.a All applicable Medicare and Medicaid standards and regulations.
- A.3.b All standards required by The Joint Commission on Accreditation of Hospitals.
- A.3.c Western Mental Health Institute Policies and Procedures.
- A.3.d Staff and Professional Bylaws of Western Mental Health Institute.
- A.3.e Tennessee Nurse Practice Act.
- A.3.f Title 33, Tennessee Code annotated.

A.4. The Contractor shall be responsible for providing the following Nursing Services:

A.4.a. Each Registered Nurse and Licensed Practical Nurse shall be responsible for the delivery of continuous and comprehensive nursing services which are consistent with current standards of nursing practice and in accordance with current Western Mental Health Institute Policies and Procedures. The Contractor shall insure that RNs supplied under this contract have the following skills:

A.4.a.1. Registered Nurses will be responsible for implementation of the following skills and be able to:

A.4.a.1.a. Implement the nursing process:

- ♦ Assess patients' physical and psychiatric problems/needs.

- ◆ Plan and implement nursing interventions appropriate to the patient(s) problem/needs.
- ◆ Evaluate the effectiveness of nursing interventions.

A.4.a.1.b. Administer Medication:

- ◆ Know the therapeutic dosage usage and effects of medication.
- ◆ Monitor and recognize the side effects of medications.
- ◆ Recognize and report adverse responses to medication.
- ◆ Accurately documents medication administration, therapeutic responses, side effects and adverse reactions.
- ◆ Make appropriate notification to M.D. of any untoward patient response to medication.
- ◆ Follows all Western Mental Health Institute policies and procedures related to medications.

A.4.a.1.c. Transcribe and Implement Physician Orders:

- ◆ Transcribes and implements physicians' orders according to Western Mental Health Institute policies and procedures and accepted nursing practice standards.
- ◆ Follows Western Mental Health Institute policies and procedures related to physicians' order transcription and implementation, i.e., signatures, co-signatures, time frames and other documentation.

A.4.a.1.d. Therapeutically interact with and communicate with patients:

- ◆ Understand principles of and utilize therapeutic interventions and communication with patients.
- ◆ Treat patients with respect and dignity, and honor their rights and confidentiality according to Western Mental Health Institute policies and procedures.
- ◆ Participate in and document nursing interventions in both psychiatric and medical crises.

A.4.a.1.e. Provide supervision to unlicensed staff:

- ◆ Provide clinical supervision to Psychiatric Technicians who are engaged in special patient observations, i.e., one to one; 15-minute checks; seclusion and restraint; according to Western Mental Health Institute policies and procedures.
- ◆ Provide administrative supervision to unlicensed staff regarding unit/patient assignments, breaks, escorts and meeting patient needs.

A.4.a.1.f. Communicate and document pertinent clinical and administrative information:

- ◆ Notifies physician and nursing supervisor appropriately of clinical and administrative crises and documents these efforts.
- ◆ Documents pertinent nursing interventions and patient responses in patient record.
- ◆ Completes Incident Reports and Tennessee Occupational Safety and Health Administration (TOSHA) reports as defined by Western Mental Health Institute policies and procedures.

A.4.a.2. Each Licensed Practical Nurse shall be responsible for the implementation of the following skills and be able to:

- A.4.a.2.a Know the therapeutic dosage range and effects of medication.
- A.4.a.2.b Monitor and recognize the side effects of medications.
- A.4.a.2.c Recognize and report adverse responses to medication.
- A.4.a.2.d Accurately document medication administration, therapeutic responses, side effects and adverse reactions.
- A.4.a.2.e Follows all Western Mental Health Institute policies and procedures related to medication.
- A.4.a.2.f Transcribe and Implement Physician Orders:

- ♦ Transcribes and implements physicians' orders according to Western Mental Health Institute policies and procedures and accepted nursing practice standards.
- ♦ Follows Western Mental Health Institute policies and procedures related to physicians' order transcription and implementation, i.e., signatures, co-signatures, time frames and other documentation.

A.4.a.2.g Therapeutically interact with and communicate with patients:

- ♦ Understand principles of and utilize therapeutic interventions and communication with patients.
- ♦ Treat patients with respect and dignity, and honor their rights and confidentiality according to Western Mental Health Institute policies and procedures.
- ♦ Participate in and document nursing interventions in both psychiatric and medical crises.

A.4.a.2.h Provide supervision to unlicensed staff:

- ♦ Provides clinical supervision to Psychiatric Technicians regarding interpretation of or need for vital signs; signs and/or symptoms of adverse responses to medications that need to be immediately reported; interpretation of special observations for patients.

A.4.a.2.i Communicate and document pertinent clinical and administrative Information:

- ♦ Notifies physician and nursing supervisor appropriately of clinical and administrative crises and documents these efforts.
- ♦ Documents pertinent nursing interventions and patient responses in patient record.
- ♦ Completes Incident Reports and TOSHA reports as defined by Western Mental Health Institute policies and procedures.
- ♦ Follow and complete all work assigned by licensed staff.
- ♦ Independently seeks patient information, assistance and/or supervision when unsure about how to provide patient care.

A.4.a.2.j Communicate and/or document pertinent clinical and administrative information.

- ♦ Communicate and/or notifies, and documents pertinent patient behavior, verbalizations and symptoms to licensed staff.
- ♦ Completes Incident Reports and TOSHA reports as indicated.

A.4.a.2.k Therapeutically interact with and communicate with patients:

- ♦ Understand principles of and utilize therapeutic interventions and communication with patients.
- ♦ Treat patients with respect and dignity, and honor their rights and confidentiality according to Western Mental Health Institute policies and procedures.

A.5. Minimum Educational & Training requirements:

A.5.a. Each nurse must have the appropriate current active license from the State of Tennessee as well as the following:

A.5.a.1. At least one (1) year of nursing experience is required. (Proof of experience in nursing must be validated in writing.) Psychiatric nursing experience of one (1) year or more is preferred.

A.5.a.2. Each nurse must be qualified in cardio-pulmonary resuscitation (CPR) procedures. The Contractor must provide written verification at the time each of its nurses are assigned to Western Mental Health Institute that the nurse is currently certified in CPR procedures. The initial and all subsequent verifications should include the effective date. The Contractor must provide this verification for each of its nurses annually at the time the nurse completes his/her required CPR training. No nurse will be allowed to work under this contract without a current CPR certification.

A.5.a.3. Contractor must provide annual in-services on CPR and Infection Control for all staff members and provide proof to Western Mental Health Institute.

A.6. Immunization and Staff Nurse Health Records:

Each nurse's immunization status must include the results of a current tuberculosis skin test, and documentation that immunization against hepatitis B, hepatitis A, and tetanus was offered and either accepted or rejected. The Contractor must provide written documentation of such at the time each of its nurses is assigned to Western Mental Health Institute and must provide updated information for each nurse annually. The cost of tuberculosis testing and immunizations are to be paid by the Contractor.

A.7. Background Checks:

Each nurses' file must include the results of a background investigation that relates to the nurses employment history, and criminal history, including any confirmed history of sexual, physical, or mental abuse towards others. This investigation shall be conducted by the Contractor at its own expense for each of its nurses and the resulting information shall be provided to Western Mental Health Institute. Any changes in the status of the above information must be documented in the nurses' file immediately when the Contractor becomes aware of such changes.

Required Background Checks are to consist of the following:

1. Fingerprints
2. Identity and Employment Eligibility verification as required by Form I-9 of the U.S. Department of Justice.
3. Check of the TBI Sexual Offender Registry
4. Check of the Elderly Abuse Registry

NO SERVICES can be provided until approval is provided as a result of the background checks.

LISTS OF ACCEPTABLE DOCUMENTS

LIST A		LIST B		LIST C
Documents that Establish Both Identity and Employment Eligibility	O R	Documents that Establish Identity	A N D	Documents that Establish Employment Eligibility
1. US Passport (unexpired or expired)		1. Drivers license or ID card issued by a state outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color and address		1. US social security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certificate of US Citizenship INS Form N-5560 or N-561		2. ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address		2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. Certificate of Naturalization		3. School ID card with a photograph		3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
		4. Voter's registration card		
		5. US Military card or draft record		
		6. Military dependent's ID card		

A.8. Orientation, In-service Training, Competency and Performance Evaluation:

A.8.a. Western Mental Health Institute shall provide a one-day orientation to each nurse supplied under this contract. **There will be no payment to the contractor for this one day of training.**

A.8.b. All staff members supplied by the contractor must successfully complete a skills checklist and competency assessment required by Western Mental Health Institute initially and following orientation.

A.8.c. All orientation, in-service, education, and other training provided by the agency to its staff requires the agency to provide an outline of educational content to Western Mental Health Institute for Western Mental Health Institute staff development files.

A.9. Time and Attendance

<u>Shift</u>	<u>Time</u>	<u>Meal Break</u>	<u>Total Paid</u>
1	6:30 AM – 8:00 PM	1 hour	12.5 hours
2	5:30 PM – 7:00 AM	1 hour	12.5 hours

Payment is authorized only for 12.5 hours/shift with the expectation that the nurse will take a full meal break. If the agency staff member is late or leaves early, this time cannot be made up by shortening or eliminating a meal break.

Holiday rates will be paid only for the following State and Federal holidays at the rate of one and one half (1½) times the regular hourly rate:

- ❖ New Years Day
- ❖ Memorial Day
- ❖ Independence Day
- ❖ Labor Day
- ❖ Thanksgiving Day
- ❖ Christmas Day

Overtime rates for time worked beyond 40 hours per week will not be paid by Western Mental Health Institute and the Contractor is responsible to monitor for and prevent overtime assignment of agency staff to Western Mental Health Institute.

It is the responsibility of the agency to provide replacement coverage if agency staff call in or fail to report for duty.

Only a Western Mental Health Institute Shift Supervisor is authorized to sign an agency staff's charge slip. Final approval is provided by the Nurse Executive or designee.

A.10. Standards of Practice. The Contractor agrees to abide by all applicable mental health institute policies and procedures while providing service to patients from Western Mental Health Institute and to fulfill any applicable requirements regarding treatment, patient confidentiality, and accreditation set forth by the Joint Commission on Accreditation of Health Organizations.

B. CONTRACT TERM:

B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2005 and ending on June 30, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least ninety (90) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million seven hundred ninety-four thousand dollars (\$1,794,000). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, profit and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Payment Rates in Section C.3. and the Maximum Liability of the State in Section C.1. under this Contract are firm for the duration of the Contract and are not subject to increase for any reason unless amended.

- C.3. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor shall be compensated based upon the following Payment Rates.

- a. For services performed from July 1, 2005, through June 30, 2006, the Contractor shall be compensated based upon the following Payment Rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Registered Nurse	\$64.00
Licensed Practical Nurse	\$42.00

- b. In the event the contract is amended to extend for additional years, the following formula will be used to calculate each year's cost per hour. The Consumer Price Index, medical care, information can be found on the U.S. Government website at:

<http://www.bls.gov/cpi/cpifact3.htm>

1. For services performed from July 1, 2006, through June 30, 2007, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2005 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
2. For services performed from July 1, 2007, through June 30, 2008, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2006 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).
3. For services performed from July 1, 2008, through June 30, 2009, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers

(CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2007 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).

4. For services performed from July 1, 2009, through June 30, 2010, the Contractor shall be compensated based upon the Payment Rates fixed in Section C.3.a above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, medical care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in December 31, 2008 and that figure published in the same month, 12-months prior, up to a maximum of seven percent (7 %).

The Contractor shall bill only for the hours worked. The Contractor shall not bill more than the hourly rate even if the Contractor works more than twelve and one-half (12 1/2) hours in a day.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been

rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under ***Tennessee Code Annotated***, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Richard Taylor, Fiscal Director
Western Mental Health Institute
Administration Building, 3rd Floor
11100 Old Hwy 64
Bolivar, TN 38008
731-228-2044
fax: 731-658-9822
e-mail: Richard.B.Taylor@state.tn.us

The Contractor:

Renae McGregor, RN
Chief Operating Officer
Guardian Healthcare Providers, Inc.
109 West Park Drive, Suite 300
Brentwood, TN 37027
615-377-9140, ext 218
fax: 615-661-6011
e-mail: rmcgregor@guardianhealthcare.com

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.5. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

- I) The Contract document and its attachments
- II) All Clarifications and addenda made to the Contractor's Proposal
- III) The Request for Proposal and its associated amendments
- IV) Technical Specifications provided to the Contractor
- V) The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.6. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.7. Date/Time Hold Harmless. As required by **Tennessee Code Annotated**, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or

political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

- E.8. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- E.9. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in **Tennessee Code Annotated**, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

- E.10. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

IN WITNESS WHEREOF:

Joe A. Orr, Pres: GED
[NAME AND TITLE]

6/18/05
Date

TENNESSEE DEPARTMENT OF MENTAL HEALTH AND DEVELOPEMENTAL DISABILITIES:

Virginia J. Betts

6-29-05

Virginia Trotter Betts, MSN, JD, RN, FAAN, Commissioner

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr. / Jgt
M. D. Goetz, Jr., Commissioner

7/18/05
Date

DEPARTMENT OF PERSONNEL:

NOT APPLICABLE

Randy C. Camp, Commissioner

Date

COMPTROLLER OF THE TREASURY:

John G. Morgan
John G. Morgan, Comptroller of the Treasury

7/22/05
Date